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EXAMINER

HARPER, ELIYAH STONE

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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 10/752,891
Filing Date: January 07, 2004
Appellant(s): JAIN ET AL.

Phouphanomketh Ditthavong (Reg. No. 44658)
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 7/7/2010 appealing from the Office action mailed 7/20/2009.

(1) Real Party in Interest

A statement identifying the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The following is a list of claims that are rejected and pending in the application:

1-53

(4) Status of Amendments After Final

The examiner has no comment on the appellant's statement of the status of amendments after final rejection contained in the brief.

(5) Summary of Claimed Subject Matter

The examiner has no comment on the summary of claimed subject matter contained in the brief.

(6) Grounds of Rejection to be Reviewed on Appeal

The examiner has no comment on the appellant's statement of the grounds of rejection to be reviewed on appeal. Every ground of rejection set forth in the Office action from which the appeal is taken (as modified by any advisory actions) is being maintained by the examiner except for the grounds of rejection (if any) listed under the subheading "WITHDRAWN REJECTIONS." New grounds of rejection (if any) are provided under the subheading "NEW GROUNDS OF REJECTION."

(7) Claims Appendix

The examiner has no comment on the copy of the appealed claims contained in the Appendix to the appellant's brief.

(8) Evidence Relied Upon

20050131957	Watkinson	6-2005
20020120719	Lee et al.	12-2001

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

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Claims 1-53 are rejected under 35 U.S.C. 103(a) as being unpatentable over US 20050131957 (hereinafter Watkinson) in view of 20020120719 (hereinafter Lee).

As for claim 1 Watkinson discloses: Watkinson discloses: a data processing device that executes: a a content engine application in communication with the web server (See paragraph 0030) a memory device having the web server and the content engine application stored therein (See paragraph 0030). Watkinson does not explicitly disclose a web server that provides for a remote network device to access the mobile terminal via a wireless communication link that provides functional access by the remote network device to one or more devices associated with the mobile terminal . Lee however, does disclose web server that provides for a remote network device to access the mobile terminal via a wireless communication link (See paragraph 0024, 0105) that provides functional access by the remote network device to one or more devices associated with the mobile terminal (See paragraphs 0085-0086), . It would have been obvious to an artisan of ordinary skill in the pertinent at the time the invention was made to have incorporated the teaching of Lee into the system of Watkinson. The modification would have been obvious because the two references are concerned with the solution to problem of managing information contained in mobile terminals, therefore there is an implicit motivation to combine these references. In other words, the ordinary skilled artisan, during his/her quest for a solution to the cited problem, would look to the cited references at the time the invention was made. Consequently, the ordinary skilled artisan, would have been motivated to combine the cited references since Lee' s teaching would enable users of Watkinson system to take advantage of having html and xml functionality (See Lee paragraph 0036).

As for claim 2 the rejection of claim 1 is incorporated, and further Watkinson discloses: wherein the content engine application provides functional access by the remote network device to one or more databases associated with the mobile terminal (See paragraph 0030).

As for claim 3, the rejection of claim 1 is incorporated, and further Watkinson discloses: wherein the content engine application further provides functional access by the remote network device to one or more mobile terminal services associated with the mobile terminal (See paragraph 0030).

As for claim 4, the rejection of claim 1 is incorporated, and further Lee discloses: wherein the data processing device further executes a display redirect application that provides for redirecting display of accessed devices from the mobile terminal display to a display associated with the remote network device (See paragraph 0099).

As for claim 5, the rejection of claim 1 is incorporated, and further Watkinson discloses: wherein the data processing device further executes a security application that provides secure remote network device access to the one or more mobile terminal devices (See paragraph 0025).

As for claim 6, the rejection of claim 1 is incorporated, and further Watkinson discloses: wherein the content engine application that provides for functional access by the remote network device to one or more mobile terminal devices further defines the

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one or more mobile terminal devices as one or more mobile terminal devices chosen from the group consisting of a mobile terminal telephone, a mobile terminal camera, a mobile terminal video recorder, a mobile terminal audio recorder and a mobile terminal Global Positioning System (GPS) device (See paragraph 0024).

As for claim 7, the rejection of claim 2 is incorporated, and further Watkinson discloses: wherein the content engine application that provides for functional access by the remote network device to one or more mobile terminal databases further defines the one or more mobile terminal databases as one or more mobile terminal databases chosen from the group consisting of a contact database, a message database, a telephone listing database, a telephone call database, a visual image database, and a calendar event database (See paragraph 0024).

As for claim 8, the rejection of claim 3 is incorporated, and further Lee discloses: wherein the content engine application that further provides for functional access by the remote network device to one or more mobile terminal services further defines the one or more mobile device services as one more mobile terminal services chosen from the group consisting of a messaging service, an entertainment service, and a Mobile Information Device (M1D1et) (See paragraph 0105).

As for claim 9, the rejection of claim 1 is incorporated, and further Lee discloses: wherein the data processing device further executes a search engine application in communication with the content engine application that provides the user of the remote

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network device the capability to search mobile terminal databases (See paragraph 0051).

As for claim 10, the rejection of claim 1 is incorporated, and further Watkinson discloses: wherein the data processing device further executes a groupware application in communication with the content engine application that provides the remote network device the capability to share, via the communication network, mobile device database information with one or more networked devices (See paragraph 0024).

As for claim 11, the rejection of claim 1 is incorporated, and further Watkinson discloses: a memory module in communication with the content engine that provides the user of the remote network device the capability to store data in the memory module (See paragraph 0030).

As for claim 12, the rejection of claim 1 is incorporated, and further Watkinson discloses: an HTTP push application in communication with the content engine application that provides for information to be pushed from the mobile terminal to the remote network device during an active networking session (See paragraph 0029).

As for claim 13, the rejection of claim 12 is incorporated, and further Watkinson discloses: a motion sensor in communication with the HTTP push application that provides for information to be pushed from the mobile terminal to the remote network

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device during an active networking session when requisite motion occurs within the mobile terminal (See paragraph 0029).

Claim 25 is a method claim comprising substantially the same limitations of claim 1 and is thus rejected for the same reasons as disclosed in claim 1.

Claim 14 is a method claim comprising substantially the same limitations of claim 1 and is thus rejected for the same reasons as disclosed in claim 1.

As for claim 15, the rejection of claim 14 is incorporated, and further Watkinson discloses: wherein the step of providing for a mobile terminal that implements a content engine further comprises providing for a mobile terminal that implements a content engine that provides access, via the web server, to one or more databases associated with the mobile terminal (See paragraph 0030).

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As for claim 16, the rejection of claim 15 is incorporated, and further Watkinson discloses: accessing, at the remote network device, one or more databases associated with the mobile terminal (See paragraph 0030).

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As for claim 17, the rejection of claim 16 is incorporated, and further Watkinson discloses: accessing, at the remote network device, one or more databases chosen from the group consisting of phonebook database, electronic mail database, calendar database, a media file database, a text file database, and contact database (See paragraph 0024).

As for claim 18, the rejection of claim 14 is incorporated, and further Watkinson discloses: wherein the step of providing for a mobile terminal that implements a content engine further comprises providing for a mobile terminal that implements a content engine that provides access, via the web server of the mobile terminal, to one or more device services associated with the mobile terminal (See paragraph 0024).

As for claim 19, the rejection of claim 18 is incorporated, and further Watkinson discloses: the step of activating, at the remote network device, one or more device services associated with the mobile terminal (See paragraph 0030).

As for claim 20, the rejection of claim 19 is incorporated, and further Lee discloses: wherein the step of activating, at the remote network device, one or more devices services associated with the mobile terminal further comprises accessing, at the remote network device, one or more devices services chosen from the group consisting of a messaging service, a Mobile Information Device (MIDlet), a search service and an entertainment service (See paragraph 0105).

As for claim 21, the rejection of claim 14 is incorporated, and further Lee discloses: activating, at the remote network device, a Global Position System device associated with the mobile terminal for the purpose of locating the mobile terminal (See paragraph 0113).

As for claim 22, the rejection of claim 14 is incorporated, and further Watkinson discloses: wherein the step of accessing, at the remote network device, one or more devices associated with the mobile terminal further comprises the step of activating, at the remote network device, a camera associated with the mobile terminal (See paragraph 0030).

As for claim 23, the rejection of claim 14 is incorporated, and further Watkinson discloses: wherein the step of accessing, at the remote network device, one or more devices associated with the mobile terminal further comprises the step of activating, at the remote network device, a video recording device associated with the mobile terminal (See paragraphs 0024, 0058).

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As for claim 24, the rejection of claim 14 is incorporated, and further Watkinson discloses: wherein the step of accessing, at the remote network device, one or more devices associated with the mobile terminal further comprises the step of activating, at

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the remote network device, a telephone associated with the mobile terminal (See paragraphs 0024,0058).

Claim 25 is a method claim comprising substantially the same limitations of claim 1 and is thus rejected for the same reasons as disclosed in claim 1.

As for claim 26, the rejection of claim 25 is incorporated, and further Lee discloses: wherein managing the mobile terminal further includes the step of displaying at the remote network device the identical display of information provided to the mobile terminal (See paragraphs 0015, 0041, 0046).

As for claim 27, the rejection of claim 25 is incorporated, and further Lee discloses: wherein the step of managing the mobile terminal further includes the step of accessing the applications associated with the mobile terminal to provide diagnostic analysis to the mobile terminal (See paragraph 0113).

As for claim 28, the rejection of claim 25 is incorporated, and further Lee discloses: wherein the step of managing the mobile terminal further includes the step of debugging the mobile terminal by tracing data communicated from the mobile terminal (See paragraph 0113).

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As for claim 29, the rejection of claim 25 is incorporated, and further Lee discloses: wherein the step of managing the mobile terminal further includes the step of monitoring the performance of the mobile terminal (See paragraph 0112).

As for claim 30, the rejection of claim 29 is incorporated, and further Lee discloses: wherein monitoring the performance of the mobile terminal further includes the step of monitoring the strength of the wireless signal provided to the mobile terminal (See paragraph 0067).

As for claim 31, the rejection of claim 25 is incorporated, and further Watkinson discloses: wherein the step of managing the mobile terminal further includes the step of monitoring the usage of applications associated with the mobile terminal (See paragraph 0023) .

As for claim 32, the rejection of claim 25 is incorporated, and further Lee discloses: wherein the step of managing the mobile terminal further includes the step of monitoring the usage of devices associated with the mobile terminal (See paragraph 0107).

As for claim 33, the rejection of claim 25 is incorporated, and further Watkinson discloses: wherein the step of managing the mobile terminal further includes the step of modifying the applications associated with the mobile terminals (See paragraph 0029).

Claims 34-38 are computer program products corresponding to the apparatus of claims 1-3,7-8 respectively and are thus rejected for the same reasons as set forth in the rejection of claims 1-3,7-8.

As for claim 39, the rejection of claim 34 is incorporated, and further Watkinson discloses: wherein the second executable instruction configured for providing the accessed remote network device functional access to one or more devices associated with the mobile terminal further comprises a second executable instruction configured for providing the accessed remote network device functional access to a telephone associated with the mobile terminal (See paragraph 0024,0058).

As for claim 40, the rejection of claim 34 is incorporated, and further Watkinson discloses: wherein the second executable instruction configured for providing the accessed remote network device functional access to one or more devices associated with the mobile terminal further comprises a second executable instruction configured for providing the accessed remote network device functional access to a Global Position System (GPS) device associated with the mobile terminal. (See paragraph 0024).

As for claim 41, the rejection of claim 34 is incorporated, and further Watkinson discloses: wherein the second executable instruction configured for providing the accessed remote network device functional access to one or more devices associated with the mobile terminal further comprises a second executable instruction capable of

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providing the accessed remote network device functional access to a camera associated with the mobile terminal (See paragraph 0030).

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As for claim 42, the rejection of claim 34 is incorporated, and further Watkinson discloses: wherein the second executable instruction configured for providing the accessed remote network device functional access to one or more devices associated with the mobile terminal further comprises a second executable instruction configured for providing the accessed remote network device functional access to a video recording device associated with the mobile terminal (See paragraphs 0030,0058).

Claims 43-48 are system claims corresponding to the apparatus of claims 1-3,6-8 respectively and are thus rejected for the same reasons as set forth in the rejection of claims 1-3,6-8.

As for claim 49, the rejection of claim 43 is incorporated, and further Lee discloses: wherein the remote network device including a second data processor device that executes a web browser application that provides access to the web server of the mobile terminal via a network connection, the network connection chosen from the group consisting of Internet, USB, serial port, parallel port, wireless local area network and infrared (See paragraphs 0066, 0089).

As for claim 50 the rejection of claim 1 is incorporated, and further Lee discloses wherein the web server is configured to instruct the data processing device to await the receipt of a HyperText Transfer Protocol (HTTP) request from the remote network device, and wherein the web server application is further configured to instruct the data processing device to respond to a HTTP request received from the remote network device by communicating an HTTP response to the remote network device (See paragraphs 0039, 0091).

As for claim 51 the rejection of claim 14 is incorporated, and further Lee discloses wherein accessing, at the remote network device, the mobile terminal via a network connection to the web server of the mobile terminal comprises communicating a HyperText Transfer Protocol (HTTP) request to the mobile terminal via the network connection (See paragraphs 0039 and 0091) .

As for claim 52 the rejection of claim 25 is incorporated, and further Lee discloses, wherein accessing, at the remote network device, the mobile terminal via a network connection to the web server executed by the mobile terminal comprises communicating a HyperText Transfer Protocol (HTTP) request to the mobile terminal via the network connection (See paragraphs 0039, 0091).

As for claim 53 the rejection of claim 43 is incorporated, and further Lee discloses wherein the web browser application of the remote network device is

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configured to provide access to the web server of the mobile terminal by communicating HyperText Transfer Protocol (HTTP) requests to the web server application via the network connection and by receiving HTTP responses from the web server application via the network connection (See paragraphs 0039, 0091).

(10) Response to Argument

This Examiner's answer will address the arguments in the order in which they appear in the appeal brief.

Argument (1): The Examiner has acknowledged that Watkinson lacks any teaching of such a mobile terminal executing/implementing a web server (see the paragraphing bridging pages 3-4 of the Final Office Action), and relied solely on Lee et al. to provide for this claim feature. In particular, the Examiner cited paragraphs [0024] and [0105] for a teaching of a "web server that provides for a remote network device to access the mobile terminal via a wireless communication link." Paragraph [0024] does recite that an "end user may access the WAP server at a mobile carrier, and the mobile server/WAP server communicate in HTTP over an internet, or a LAN, with a Web Server" and paragraph [0105] does recite that a "push program will send the alert in a WML to the mobile phone 41, via the WAP gateway, 51" and that a "mobile user can select the URL in the alert and send a response or status update back to the SWE using the WML communication mechanism."

Thus, while Lee et al. may provide for a "web server that provides for a remote network device to access the mobile terminal via a wireless communication link," the instant claims recite a "mobile terminal apparatus...comprising a processor that executes a web server" or "a mobile terminal that implements a web server." The claimed invention provides for the mobile terminal executing or implementing a web server that provides remote network devices access to an addressable website, portal, or homepage that resides on the mobile terminal. The mobile terminal will generally function similar to an origin server residing on the Internet (See page 9, lines 16-23, of the instant specification, for example). Although the Examiner has tried on numerous occasions to provide a reference that discloses such a feature, the Examiner has not yet succeeded in doing so and such piecemeal prosecution is both unfair and costly to Appellants. The Examiner is clearly overlooking the plain text reading of the claims, as the claims do not recite a "web server that provides for a remote network device to access the mobile terminal via a wireless communication link," as in Lee et al., but rather recite that the mobile terminal executes/implements a web server.

While independent claim 34 does not specifically recite a "web server," the claim is directed to an application that is capable of providing a remote network device access to a mobile terminal, and of providing the accessed remote network device functional access to one or more devices associated with the mobile terminal. Thus, independent claim 34, like independent claims 1, 14, 25, and 43, is clearly patentable under 35 U.S.C. §103(a) based on Watkinson in view of Lee et al.

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In response to argument (1): examiner respectfully submits that Initially examiner notes that one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986). In this case Lee was cited for the disclosure of a mobile web server. Lee paragraph 0013 discloses that the WWW url standard is not just used for accessing information on the servers but also used to identify resources on a local device. Moreover the "Test of obviousness is not whether features of secondary reference may be bodily incorporated into primary reference's structure, nor whether claimed invention is expressly suggested in any one or all of references; rather, test is what combined teachings of references would have suggested to those of ordinary skill in art." *In re Keller*, Terry, and Davies, 208 USPQ 871 (CCPA 1981). An artisan or ordinary skill in the art would understand that the disclosure of Lee works for both accessing information on the server and information on the mobile terminal and accordingly, the cited paragraph 0024 equally applies to the mobile terminal when looking searching for local resources.

Moreover the Wireless Telephony Application Server would also satisfy the claims requirement of a mobile terminal executing a web server. The WTA discloses in paragraph 0019-0023 is a gateway mobile terminal that can responds to request directly via a wireless link.

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Argument (2): Moreover, taking independent claim 1 as exemplary, the web server application and the content engine application are both part of the mobile terminal apparatus and the content engine application in communication with the web server provides "functional access by the remote network device to one or more devices associated with the mobile terminal." The Examiner asserted that Watkinson discloses a content engine application at paragraph [0030] but acknowledged that no web server is disclosed therein (see pages 3-4 of the Final Office Action). Paragraph [0030] of Watkinson is directed to updating Mobile Imagebase databases. To the extent the Examiner is equating such databases with the claimed content engine application, the reasoning is flawed because the Mobile Imagebase databases of Watkinson do not "provide functional access by the remote network device to one or more devices associated with the mobile terminal." Rather, the Mobile Imagebase merely propagates changes to other users' databases. PDAs of other users are hardly "devices associated with the mobile terminal."

Further, while Lee et al. discloses a web server application, there is no suggestion in either of the references to include such a web server application together with a content engine application (or the Mobile Imagebase database of Watkinson) in the same mobile terminal (specifically within the same memory) in order "to provide functional access by the remote network device to one or more devices associated with the mobile terminal," as claimed.

In response to argument (2): examiner respectfully submits that examiner respectfully submits that Examiner is entitled to give claim limitations their broadest reasonable interpretation in light of the specification. Interpretation of Claims-Broadest Reasonable Interpretation: During patent examination, the pending claims must be 'given the broadest reasonable interpretation consistent with the specification.'

Applicant always has the opportunity to amend the claims during prosecution and broad interpretation by the examiner reduces the possibility that the claim, once issued, will be interpreted more broadly than is justified. In re Prater, 162 USPQ 541,550-51 (CCPA 1969). In this case applicant argues that neither the transference or data or the synchronization of data constitute "management." However both the transference of data and the synchronization of data require the server or non mobile apparatus to exercise a great deal of control over the mobile terminal and control is the very definition of what it means to "manage." Moreover since claim 1 is the exemplary claim, it provides for "access" to the mobile terminal via a wireless link and "functional" access to the mobile devices via the content engine. The terms "manage", and "functional access" are broad terms and examiner respectfully submits that applicant has provided nothing more than a statement of what the claims shouldn't be interpreted but it is consistent with the specification. Propagating changes is "functional access" as changes and updates of information can be vital to a system. Moreover the term functional access simply access that is meaningful and more than mere access of information, and propagating changes certainly fits that description.

Argument (3): Still further, neither of the applied references teaches or suggests "managing the mobile terminal from the remote network device," as in independent claim 25. Neither the synchronization of database records in Watkinson nor the transferring of data between a server and one or more clients over a network, as in Lee et al., is a "management" of the mobile terminal from a remote network device.

In response to argument (3): examiner respectfully submits that examiner respectfully submits that Examiner is entitled to give claim limitations their broadest reasonable interpretation in light of the specification. Interpretation of Claims-Broadest Reasonable Interpretation: During patent examination, the pending claims must be 'given the broadest reasonable interpretation consistent with the specification.' Applicant always has the opportunity to amend the claims during prosecution and broad interpretation by the examiner reduces the possibility that the claim, once issued, will be interpreted more broadly than is justified. In re Prater, 162 USPQ 541,550-51 (CCPA 1969). In this case applicant argues that neither the transference or data or the synchronization of data constitute "management." However both the transference of data and the synchronization of data require the server or non mobile apparatus to exercise a great deal of control over the mobile terminal and control is the very definition of what it means to "manage." Moreover since claim 1 is the exemplary claim, it provides for "access" to the mobile terminal via a wireless link and "functional" access to the mobile devices via the content engine. The terms "manage", and "functional

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access” are broad terms and examiner respectfully submits that applicant has provided nothing more than a statement of what the claims shouldn’t be interpreted but it is consistent with the specification. Propagating changes is “functional access” as changes and updates of information can be vital to a system. Moreover the term functional access simply access that is meaningful and more than mere access of information, and propagating changes certainly fits that description.

Argument (4): Still further, claim 28 is patentable apart from independent claim 25 from which it depends. Specifically, claim 28 recites "wherein managing the mobile terminal further includes debugging the mobile terminal by tracing data communicated from the mobile terminal." This feature is nowhere taught or suggested by the applied references. The Examiner asserted that this feature is taught at paragraph [0113] of Lee et al. but reference to that cited portion reveals only a discussion of real time updating of various items (e.g., personnel, leads, pricing, etc.) and that notification can be delivered by push technology, but there is no suggestion of any "debugging," let alone, "debugging the mobile terminal by tracing data communicated from the mobile terminal." Thus, Lee et al. suggests nothing regarding the debugging of a mobile terminal by tracing data communicated from the mobile terminal.

In response to argument (4): examiner respectfully submits that Examiner is entitled to give claim limitations their broadest reasonable interpretation in light of the specification. Interpretation of Claims-Broadest Reasonable Interpretation: During

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patent examination, the pending claims must be 'given the broadest reasonable interpretation consistent with the specification.' Applicant always has the opportunity to amend the claims during prosecution and broad interpretation by the examiner reduces the possibility that the claim, once issued, will be interpreted more broadly than is justified. In re Prater, 162 USPQ 541,550-51 (CCPA 1969). In this case synchronization is a form a debugging in which the system automatically searches for problem data sets and conforms them to a suitable standard before the system undergoes an error. If the system teaches synchronization between two systems for the purposes of keeping data current then the system discloses debugging the system as a bug is defined as a error that will cause a system to undergo unexpected or undefined results/functions.

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Conclusion

Claims 1-53 are properly rejected under 35 U.S.C. §103(a). In light of the foregoing arguments, the Examiner respectfully requests that the Honorable Board of Appeals sustain the rejections.

Respectfully submitted,
Elijah S. Harper
Patent Examiner
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